



THE STATE BAR OF CALIFORNIA

OFFICE OF LEGAL SERVICES, ACCESS & FAIRNESS PROGRAMS

Standing Committee on the Delivery of Legal Services

180 Howard Street, San Francisco, CA 94105 Tel: 415-538-2267 Fax: 415-538-2552 Chair 2004-2005, Bonnie Hough, San Francisco

November 2004

Dear Colleagues,

The State Bar Board of Governors established the Standing Committee on the Delivery of Legal Services (SCDLS) in part to encourage and facilitate the participation of California attorneys in the performance of pro bono work. SCDLS recognizes the important role of local bar associations in encouraging their members to volunteer with local legal services programs and wishes to offer its ongoing support for your efforts to encourage, enhance or revitalize pro bono work among your members for the benefit of the needy residents in your community, as well as for improvements in the efficient and fair administration of the justice system.

Between 1990 to 2000, California registered an increase of one million people living in poverty, many of them children, and many with legal needs. With current resources, legal services programs cannot meet this growing demand for free or reduced-fee services. Increasingly people have to represent themselves because they cannot afford an attorney. Increased pro bono work will help fill the gap between the needs that exist and the lack of adequate resources to meet those needs.

While we recognize that many attorneys already represent clients without charge in meritorious cases, we also want to encourage attorneys to direct their volunteer services through established legal services providers. Not only do these programs provide mentoring and malpractice coverage, but also they apply eligibility guidelines to help ensure that only clients unable to afford representation receive pro bono assistance.

In June 2002, the State Bar amended and re-affirmed its Pro Bono Resolution calling on all attorneys in the state to donate at least 50 hours of pro bono annually. During the past two years local bar associations have adopted pro bono policy resolutions and a few have recently updated and re-affirmed their policy statements. We encourage all California bar associations to adopt or renew a pro bono policy similar to the State Bar's and to publicize it among its membership at regular intervals. We also urge local bar leaders to support existing legal services programs in your district and to help launch new initiatives where needed.

We are providing the enclosed materials to help in your efforts to increase awareness of this important issue and to enlist the active support and involvement of your members for pro bono legal services.

For more information, technical assistance, or to share your ideas, please contact State Bar Program Development staff Rodney Low at (415) 538-2219 or rodney.low@calbar.ca.gov or Sharon Ngim at (415) 538-2267 or sharon.ngim@calbar.ca.gov. Your members will find that pro bono work is an enriching and rewarding experience, as well as a professionally sound investment in our system of justice. Thank you for your efforts to support and encourage pro bono.

Sincerely,

Carl Poirot

Carl Poirot
Immediate Past Chair, 2003-2004

Bonnie Hough

Bonnie Hough
Chair, 2004-2005



Judicial Council of California
ADMINISTRATIVE OFFICE OF THE COURTS

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RONALD M. GEORGE
Chief Justice of California
Chair of the Judicial Council

WILLIAM C. VICKREY
Administrative Director of the Courts

RONALD G. OVERHOLT
Chief Deputy Director

Dear Bar Leader,

Today, 1.5 million families in California do not have access to lawyers when confronted with legal disputes. This condition exacerbates the anguish of victims of domestic violence, elderly persons swindled out of their retirement nest eggs, and immigrants cheated of their rights. As a community, we need to mobilize the resources of the legal community to ensure access to justice for all.

How can we respond?

For its part, the California justice system has initiated innovations to improve the public's access to our courts and to legal services. We have worked to develop self-help centers, shift funding for trial courts from counties to the state, and we have worked together to establish the Equal Access Fund, which provides \$10 million annually to fund services for indigent people through nonprofit legal services providers.

Unfortunately, the present economic slump may jeopardize our ability to secure our gains and to increase funding. **We must act to increase the number of pro bono attorneys assisting indigent clients.**

Many lawyers across the state and the nation have already heeded the call for pro bono services. Still, we need a larger pool of volunteer lawyers. This need is especially acute in California because of our growing diverse population of immigrants, low-wage workers, seniors, and other vulnerable groups who face enormous difficulties in accessing the justice system.

Enclosed is a letter from the California State Bar's Standing Committee on the Delivery of Legal Services (SCDLS) seeking your organization's support for pro bono services among your members, along with a tool kit containing some information useful for your campaign. I urge you to work actively with your members to increase pro bono in your community.

Sincerely,

RONALD M. GEORGE
Chief Justice of California and
Chair of the Judicial Council

Pro Bono Resolution

(Adopted by the Board of Governors of the State Bar of California
at its December 9, 1989 Meeting and amended at its June 22, 2002 Meeting)

RESOLVED that the Board hereby adopts the following resolution and urges local bar associations to adopt similar resolutions:

WHEREAS, there is an increasingly dire need for pro bono legal services for the needy and disadvantaged; and

WHEREAS, the federal, state and local governments are not providing sufficient funds for the delivery of legal services to the poor and disadvantaged; and

WHEREAS, lawyers should ensure that all members of the public have equal redress to the courts for resolution of their disputes and access to lawyers when legal services are necessary; and

WHEREAS, the Chief Justice of the California Supreme Court, the Judicial Council of California and Judicial Officers throughout California have consistently emphasized the pro bono responsibility of lawyers and its importance to the fair and efficient administration of justice; and

WHEREAS, California Business and Professions Code Section 6068(h) establishes that it is the duty of a lawyer "Never to reject, for any consideration personal to himself or herself, the cause of the defenseless or the oppressed"; now, therefore, it is

RESOLVED that the Board of Governors of the State Bar of California:

- (1) Urges all attorneys to devote a reasonable amount of time, at least 50 hours per year, to provide or enable the direct delivery of legal services, without expectation of compensation other than reimbursement of expenses, to indigent individuals, or to not-for-profit organizations with a primary purpose of providing services to the poor or on behalf of the poor or disadvantaged, not-for-profit organizations with a purpose of improving the law and the legal system, or increasing access to justice;
- (2) Urges all law firms and governmental and corporate employers to promote and support the involvement of associates and partners in pro bono and other public service activities by counting all or a reasonable portion of their time spent on these activities, at least 50 hours per year, toward their billable hour requirements, or by otherwise giving actual work credit for these activities;
- (3) Urges all law schools to promote and encourage the participation of law students in pro bono activities, including requiring any law firm wishing to recruit on campus to provide a written statement of its policy, if any, concerning the involvement of its attorneys in public service and pro bono activities; and
- (4) Urges all attorneys and law firms to contribute financial support to not-for-profit organizations that provide free legal services to the poor, especially those attorneys who are precluded from directly rendering pro bono services.

PRO BONO BENEFITS EVERYONE

The State Bar recognizes that an active pro bono program is one of the major benefits a local bar association can provide while meeting the legal needs of the low-income members of the community. Pro bono enhances the reputation of the legal profession and can serve as a strong recruitment incentive for new members.

Benefits to the Community

- Nearly 1.5 million families in California live below federal poverty guidelines, struggling daily to maintain shelter, food, clothing, health care, and education.
- Pro bono work can help prevent homelessness, help women and children escape violent relationships, help foster parents adopt children, and bring hope of a better future and financial stability to poor and low-income people throughout California.

Benefits to the Bar and Attorneys

- Pro bono assists the courts to operate more efficiently and fairly.
- Pro bono work creates valuable networking opportunities.
- New attorneys can gain new areas of expertise and improve their legal skills.
- Experienced and retired attorneys can use their experience to mentor new attorneys and to explore new areas of practice.
- Pro bono attorneys may receive free MCLE credit for pro bono trainings.

Bar Association Support for Pro Bono

- Bar association support for pro bono is crucial in expanding services. Bars can help promote pro bono through: annual articles in bar publications or letters from the President; voluntary add-on donations to membership dues; fund drives; establishment of bar foundations; donating proceeds of membership events such as banquets, auctions, and golf tournaments; and listings of pro bono opportunities in newsletters, mailings, and at membership events, including new lawyer orientations.
- Bar associations can adopt a resolution, based on the State Bar Resolution, encouraging a minimum number of pro bono hours annually. Bar Presidents and local Presiding Judges can send letters encouraging members to volunteer.
- Local bars can co-sponsor pro bono trainings and other legal services events.
- Bar associations can encourage members to bring their expertise to local legal services programs by joining boards, conducting trainings, and mentoring staff and volunteers.

SNAPSHOT OF LOCAL BAR SPONSORED PRO BONO MODELS IN CALIFORNIA

Fresno County Bar Association Pro Bono Services Section

In 2002, the Fresno County Bar Association established the Pro Bono Services Section to institutionalize their commitment to pro bono. The bar and its Attorney Referral and Information Service have been long-time supporters and partners of the Voluntary Legal Services Program of Central California Legal Services (CCLS), the LSC-funded program serving Fresno, Merced, Mariposa, Tuolumne, Tulare and Kings Counties. Members have the opportunity to participate in a variety of projects including, but not limited to, the Domestic Violence Restraining Order Representation Project, Senior Legal Aid, the Fresh Start Bankruptcy/Debt Collection Clinic and the Homeless Veterans Operation Stand Down. VLSP provides a variety of support services including malpractice insurance.

For more information, contact:

Kathleen Meehan, 559-432-5400 or kam@bmj-law.com

Shasta Voluntary Legal Services Program (SVLSP)

SVLSP began in July 1999 and is a partnership program between the Legal Services of Northern CA's Shasta Regional Office in Redding (this is a branch office of a large LSC-funded program) and the Shasta-Trinity Counties Bar Association. Legal services staff screen clients for financial and case eligibility, conduct intake and then refer cases to one of 50+ volunteer attorneys. Pro bono attorneys also can participate in other efforts such as clinics to assist with unlawful detainers, expungements or guardianships; community education classes for guardianships, credit counseling or legal issues for small business start ups; and a forms class for guardianships. A 21-member advisory committee, comprised of local attorneys, court clerks, members of the bench and local non-profit professionals, meets bi-weekly to address the needs of the community and how the Shasta Regional Office can better serve clients of the region and assist the courts.

For more information contact:

Kathy Ferrell, Office Manager, Shasta Regional Office of Legal Services of Northern California, 530-241-3565 or kferrell@lsnc.net.

Korean American Bar Association Pro Bono Clinic

The Korean American Bar Association (KABA) launched its monthly pro bono clinic in April of 2002. The clinic, which is held in the heart of Koreatown, is co-sponsored by the Legal Aid Foundation of Los Angeles, Korean Youth & Community Center, and the Asian Pacific American Legal Center. Each month, 10 to 15 volunteer attorneys from KABA meet with more than 30 clients to consult about various legal concerns. Law students and other volunteers interested in community service also come out to take part in the clinics. In addition to the clinics, KABA conducts legal informational seminars to address specific problems faced by Korean Americans in areas such as immigration and naturalization.

For more information, contact:

Katy Hong, KABA Consultant, 323-801-7998 or kabaconsultant@yahoo.com

Volunteer Lawyers Services Program (VLSP) of the Ventura County Bar Association

This program began in 1996. It is physically located at and administered by the county bar association. Attorneys who are enrolled in the State Bar's Emeritus Attorney Pro Bono Program (see brochure enclosed) evaluate cases of clients who have been pre-screened for income eligibility, provide brief service and, when necessary, find a volunteer attorney to provide more in-depth assistance. VLSP works very closely with the bar's Lawyer Referral and Information Service, the courts (including the Family Law Facilitator and the Self-Help Legal Access Center), the local office of California Rural Legal Assistance and several independent legal advocacy programs in the county.

For more information, contact:

Tina Rasnow, Immediate Past President, Ventura County Bar Association, 805-654-3879 or tina.rasnow@mail.co.ventura.ca.us

David L. Shain, Chair, Ventura County Bar Association VLSP, 805-659-6800 or dshain@fcopc.com

Southern California Chinese Lawyers Association (SCCLA) Legal Clinic and Community Education Programs

This monthly clinic for the Chinese-speaking community in the San Gabriel Valley is co-sponsored by the Asian Pacific American Legal Center, Asian Youth Center, Legal Aid Foundation of Los Angeles, and Neighborhood Legal Services of Los Angeles County. Litigants meet with volunteer attorneys and consult about a variety of legal problems. SCCLA members also are involved in other pro bono and community service projects. In addition, SCCLA hosts seminars to educate the public about fraud in the legal field. The seminars are targeted toward the Chinese-speaking immigrant community and aim to heighten their awareness of scam artists and form preparers who practice law without a license.

For more information, contact:

Shirley Yauw, SCCLA Pro Bono Committee Chair, 213-977-7500, ext. 265 or syauw@yahoo.com

Katy Hong, Legal Aid Foundation of Los Angeles, 323-801-7998 or khong@lafla.org

FREQUENTLY ASKED QUESTIONS ABOUT PRO BONO

Will I need malpractice insurance?

If you receive a case from a qualified legal services provider, you should receive coverage for your pro bono work. You should always check with your pro bono provider for more specific information about coverage.

How do I know if a legal services provider is “qualified”?

A qualified legal services provider is one that receives funding from the State Bar's Legal Services Trust Fund (IOLTA) Program. A list of grantees can be found at the State Bar's website at: http://calbar.ca.gov/state/calbar/calbar_generic.jsp?cid=12310&id=14534. Also enclosed is a directory of qualified legal services providers that provide pro bono opportunities.

What can I do besides direct representation?

There is a broad range of pro bono activities that do not require direct, full representation and court appearances. Many programs run clinics and hotlines; your only commitment is for the time spent at the clinic or covering the hotline. California courts allow unbundled (or limited, discrete) services, so that you can draft pleadings only, or undertake only a portion of the representation, without committing to full representation.

Experienced attorneys can mentor newer legal services staff or other pro bono attorneys, can provide research, serve on boards or advisory committees, raise funds, make monetary contributions, and participate in pro bono policy making at the local, regional or statewide level.

What legal work qualifies as pro bono?

The State Bar Board of Governors defines pro bono as providing or enabling “the direct delivery of legal services, without expectation of compensation other than reimbursement of expenses, to indigent individuals, or to not-for-profit organizations with a primary purpose of providing services to the poor or on behalf of the poor or disadvantaged, not-for-profit organizations with a purpose of improving the law and the legal system, or increasing access to justice.” (See Pro Bono Resolution enclosed.)

Legal work for clients referred from a qualified legal services program will always qualify as pro bono. Assisting friends or relatives who are not indigent is not pro bono. Similarly, if a client is suddenly unable to pay for legal services, that does not count as pro bono as the attorney expected compensation at the outset of the representation.

What pro bono work can a retired attorney do?

Retired attorneys can participate in a wide range of pro bono activities including mentoring, participation in a legal clinic or full representation. The State Bar waives the active membership fee for those who practice solely for the purpose of providing pro bono legal assistance through qualified legal services providers and State Bar certified lawyer referral services. For more information about the Emeritus Attorney Pro Bono Program, please refer to the enclosed brochure, go to http://calbar.ca.gov/state/calbar/calbar_generic.jsp?cid=12642&id=3561 or contact Rodney Low at (415) 538-2219 or rodney.low@calbar.ca.gov.

What pro bono work can a government attorney perform?

Many government agencies have adopted specific programs to allow their attorneys to handle pro bono opportunities with prior approval. Legal services programs provide malpractice coverage for pro bono work. Please contact your Human Resources department or supervisor for details.

What can non-attorney professionals do?

Pro bono programs often can use the talents of a variety of professionals, from forensic accountants and real estate experts to private investigators and marketing/development professionals. Paralegals and legal secretaries can make invaluable contributions, from supporting the work of attorneys in pro bono cases to providing much-needed assistance to legal services attorneys. Each program has different needs, so prospective volunteers should contact their local program for details.

Can I be reimbursed for my out-of-pocket expenses?

Most legal services programs maintain a small budget for litigation costs. Your local program may be able to reimburse you for some costs. Most clients will qualify for fee waivers for court filing fees and may receive free court or deposition transcripts from the Transcript Reimbursement Fund under Business and Professions Code section 8030.2 et seq.

What if I'm unfamiliar with the area of law?

Many legal services programs offer training (including MCLE and credit) and mentoring. As issues facing the poor often are discrete and recurring, you can learn the subset of the substantive law in a few hours or days. Your experience as an attorney will make an invaluable contribution to the clients. Your involvement may be limited to a portion of the case without accepting full representation, such as drafting pleadings or advising a litigant on negotiation strategies.

What pro bono resources are available on the Internet?

- American Bar Association Center for Pro Bono: <http://www.abanet.org/legalservices/probono/home.html>
- American Corporate Counsel Association: www.acca.com
- CorporateProBono.Org: <http://www.cpbo.org>
- *Making Pro Bono a Priority: A Bar Leader's Handbook*:
<http://www.abanet.org/legalservices/downloads/probono/barleader2.pdf>
- *The Path to Equal Justice: A Five-Year Status Report on Access to Justice in California*, Published by the California Commission on Access to Justice:
<http://www.calbar.ca.gov/calbar/pdfs/accessjustice/2002-Access-Justice-Report.pdf>
- Pro Bono Clearinghouse: <http://www.abanet.org/legalservices/probono/clearinghouselibrary.html>
- Pro Bono Institute: <http://www.probonoinst.org>
- Pro Bono LA: <http://www.probonola.org/>
- Pro Bono Net: www.probono.net

SELECTED QUOTATIONS

One of the most effective methods to recruit and retain pro bono volunteers is active support from bar association leadership. The State Bar Standing Committee on the Delivery of Legal Services encourages bar association presidents to write an annual letter or article of the association newsletter or similar publication promoting the rewards of pro bono. We hope you may find one or more of the following quotations helpful for newsletters as well as public remarks in support of pro bono.

"Certainly, life as a lawyer is a bit more complex today than it was a century ago. The ever-increasing pressures of the legal marketplace, the need to bill hours, to market to clients, and to attend to the bottom line, have made fulfilling the responsibilities of community service quite difficult. But public service marks the difference between a business and a profession. While a business can afford to focus solely on profits, a profession cannot. It must devote itself first to the community it is responsible to serve. I can imagine no greater duty than fulfilling this obligation. And I can imagine no greater pleasure."

— Justice Sandra Day O'Connor, 78 Or. L. Rev. 385, 391 (1999)

"Except for the few that legal services lawyers can represent, poor people have access to American courts in the same sense that the Christians had access to the lions when they were dragged, unarmed, into a Roman arena."

— Justice Earl Johnson, Jr., quoted in Becker and Gibberman, *On Trial!* (1987)

"But more than anything else, we have learned that legal assistance for the poor, when properly provided, is one of the most constructive ways to help them help themselves."

— President Richard Nixon (1974)

"There can be no equal justice where the kind of trial a man gets depends on the amount of money he has."

— Justice Hugo Black, *Griffin v. Illinois*, 351 U.S. 12, 19 (1956)

"We are here on earth to do good to others. What the others are here for, I don't know."

— W.H. Auden

"Where justice is denied, where poverty is enforced, where ignorance prevails, and where any one class is made to feel that society is an organized conspiracy to oppress, rob and degrade them, neither persons nor property will be safe."

— Fredrick Douglass

"True peace is not merely the absence of tension; it is the presence of justice."

— Dr. Martin Luther King, Jr.

"Equal justice under law is not merely a caption on the facade of the Supreme Court building, it is perhaps the most inspiring ideal of our society. It is one of the ends for which our entire legal system exists...it is fundamental that justice should be the same, in substance and availability, without regard to economic status."

— Lewis Powell, Jr., U.S. Supreme Court Justice (ret.), during his tenure as President of the American Bar Association

THE STATE BAR'S COMMITMENT TO PRO BONO

The State Bar of California has a long-standing commitment to increasing and enhancing the provision of pro bono legal services to low-income Californians. Examples of that commitment are provided below.

- **Standing Committee on the Delivery of Legal Services (SCDLS)**

SCDLS was created in 1999 to replace the former Legal Services Section. The 20-member committee advises the Board of Governors on matters involving the delivery of legal services to low and middle-income Californians with a particular interest in promoting pro bono legal services. (See *brochure enclosed*.)

- **Ongoing Technical Assistance**

Staff from the Office of Legal Services, Access & Fairness Programs offers information to attorneys seeking local pro bono opportunities and assists bar associations and other entities with developing, revitalizing or enhancing their pro bono efforts. (See *contact information below*.)

- **President's Pro Bono Service Awards**

Established in 1983, these awards provide annual statewide recognition of attorneys from eight practice settings (corporate; emeritus or limited active practice; government; law firm—small, medium and large; newly admitted; and solo) for outstanding provision of pro bono legal services. The awards are presented during the State Bar Annual Meeting. (See *A Tribute to Pro Bono 2004 enclosed*; for information on the nomination process, see *contact information below*.)

- **Emeritus Attorney Pro Bono Program**

Since 1987, attorneys who otherwise could be engaged in the active practice of law, such as retired attorneys or others who have temporarily stopped practicing law, can have their active State Bar membership fee waived for the sole purpose of providing pro bono legal services with a qualified legal services provider or through a State Bar certified lawyer referral service. More information is available from the enclosed brochure or on the State Bar's website at:

http://calbar.ca.gov/state/calbar/calbar_generic.jsp?cid=12642&id=3561.

- **Board of Governor's Pro Bono Resolution**

First adopted in 1989, the Pro Bono Resolution encourages all attorneys to contribute 50 hours of pro bono legal services each year. The 2002 amendment acknowledges judicial support; urges law schools to promote and encourage law student pro bono participation; adds optional support through financial contributions; and references California Bus. & Prof. Code § 6068(h). (See *Pro Bono Resolution enclosed*.)

- **Board of Legal Specialization**

In 2002, this entity adopted a resolution encouraging all State Bar certified legal specialists to do pro bono work with a qualified legal services provider or a State Bar certified lawyer referral services in the form of training and mentoring staff and/or volunteer attorneys.

For more information, please contact Program Developers Rodney Low at 415-538-2219 or rodney.low@calbar.ca.gov, or Sharon Ngim at 415-538-2267 or sharon.ngim@calbar.ca.gov in the Office of Legal Services, Access & Fairness Programs.